

Remarks

Claims 38 and 39 have been amended to include language from claims 1 and 2 to better define the invention claimed. As noted in the Office Action, claims 1-45 and 49-64 are pending. Claims 1-37, 40-45 and 55-64 are indicated as allowed. Applicants acknowledge this favorable action, but notes that this amendment has, in part, amendments to these claims of a spelling or other typographical correction, as well as additional clarifying words.

Response to Double Patenting rejection.

In the Office Action of 02/20/2004 the rejection based upon the doctrine of double patenting stated the rationale that

“Claims 38-39 and 49-54 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 42 and 44 of U. S. Patent No. 5,788,574 in view of Franchi (U. S. Patent No. 5,770,533). U. S. Patent No. 5,788,574 discloses a method of incorporating one of a consecutive side bets into a game of claim 49, the betting unit of claim 38 and a chip receptacle of claims 39, but does not disclose having a weighing sensor to determine the weight of the chip place (sic) thereon. However, Franchi discloses having means to weigh a chip in order to validate the chip at the gaming table. One would be motivated to provide weighing means to the Ornstein patent in order to further validate the chips or tokens used. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate weighing means into the gaming table of Ornstein in order to further validate the chips or tokens used. “

Applicant requests reconsideration of this reason for rejection, particularly with consideration of the claims as amended.

First, it is noted that Applicant's present claims 38 and 39 have a specific limitation of a "chip receptacle including a weighing sensor for determining a weight of a chip placed thereon." Secondly, it is noted that the recent amendment to the language of the claims makes clearer the fact that **the weighing sensor of the claimed betting units are enabled to differentiate chips by weight in a manner not heretofore achievable.**

Applicant traverses the characterization in the present office action that "Franchi discloses having means to weigh a chip in order to validate the chip at the gaming table." Franchi does not teach in terms of "means", but rather specific structures, that of a chute or rack. The disclosed apparatus in Franchi are not taught as having the differentiation capability of the present invention.

Franchi describes the structure of the gaming machines or tables for differing types of gambling stations. For instance, in discussing slot machines for use in the casino operating system Franchi discloses a mechanism to count the number, not measure the weight, of coins dispensed.

"The individual game computer will also include a mechanism to count the number of coins dispensed by each slot machine 500. The counting mechanism can be any used in conventional slot machines, but the output of the counter is provided to the individual game computer in addition to the slot machine 500. " (Col. 9, lines 26-31; emphasis added.)

For a blackjack table for use in the Franchi casino operating system, the following is disclosed

"If betting chips are used, the player inserts a betting card into the console card reader 703 and enters a command, for example, using numeric keypad 806 and

button 807, for the individual game computer to issue a certain value of chips to the player. The value of the chips is subtracted from the player's betting card, and the chips are distributed to the player from inside the table into a recessed tray 704 in the table, for example, positioned in front of the player, similar to a slot machine tray. As shown in FIG. 7, in the preferred embodiment, the recessed tray 704 is positioned within the surface of the blackjack table 700 such that the players' hands remain above the table at all times during play of the game.

"Further, a chip receiving structure 705 is provided such that the chips bet by each individual player are placed into the chip receiving structure 705 and dropped into a central location once betting has been closed. When the chips are dropped down into the table, they are scanned to determine their value. Alternative means, such as a slanting rack structure, may also be used to hold the chips in a betting position such that the amount of the bet may be automatically determined. As shown in FIG. 7, in the preferred embodiment, the chip receiving structure 705 is positioned in front of the player console to enable the dealer to more easily monitor player betting activity.

"When a player has finished playing at a particular table, the player may cash out by selecting this option on the player console and inserting all of the player's chips into the chip receiving structure 705. The sensed value of the chips will be credited to the player's betting card 401. " (Col. 11, lines 13-42, emphasis added)

This embodiment describes scanning the value when the chips are dropped or queued in a rack, so that the interpretation of "(t)he sensed value of the chips" should be as the chips are dropped from the receptacle, not after placement in the chip receiving structure. **Nor is there any teaching as to how weight would be measured to determine the value of the chip dropped or racked.**

There are a number of possible ways of scanning chips according to the Franchi invention

“In an alternative embodiment, sensors may also be provided to detect, for example, the color, size or weight of the chip if chips of different values have different colors, weights and sizes. Once the individual gaming table has calculated the winnings and losses of each individual player based on the cards dealt, the players who have won will be paid out through the recessed tray 704 in the table. As in a slot machine, the number of chips or the amount of chips will be counted as the chips are distributed to the individual players in the recessed trays 704. “ (Col. 11, line 65, - col. 12, line 7)

This passage does not teach that weight alone is a determining factor in determining value in the disclosed Franchi inventions. Note that the phrase is “if chips of different values have different colors, weights and sizes”, not an alternative of colors, weights **or** sizes. The present invention allows differentiation on weight alone and does not require the combination of colors, weights and sizes. This is a tremendous improvement over the art of Franchi. The presently claimed betting unit provides the determination by weight alone not achievable in the teaching of Franchi. To interpret Franchi as teaching the use of weight alone to accurately determine value is a hindsight interpretation using the present application to exclude the elements of color and size. **The present invention clearly presents the case that heretofore there is an insufficient teaching, hence recognition, in the art on how weight can be used to different value in chips. The problem of groups of chips having the same weight but different values is not disclosed in the art presented and, accordingly, there has been no solution to the deficiency of using weight alone without limitations which can result from the problem of groups of chips having the same weight but different values.**

Franchi also disclosed a poker table for use in the casino operating system,

“including a recess 1101 in the center of the poker table 1100 into which the betting chips are fed and a flat transparent table top 1107 onto which cards can be dealt....

”To count the betting chips after the pile has been won, a chute is provided to each individual player with a sensor for reading the value of the chips passing through the chute to the individual player's recessed tray 1102. Smart betting chips 1800 are used in the preferred embodiment, wherein the IC chip 1801 within the smart betting chips 1800 transmits identity and value information to the sensor as the smart betting chips 1800 slide past the scanner in the chute. Thus, when a player wins the pot, the chips in the pot are distributed to the player through a chute. The chute contains a sensor that counts the value of the chips distributed to the player.“ (Col. 12, line 63, - col. 13, line 12; emphasis added)

Again, this passage does not teach how the values are sensed and, in particular, it does not teach that weight alone can be used to sense the value of the chips or how that could be done. Additionally, this passage describes only the method of valuing a payout, which Applicant contends would be done through designated denominations in a controlled dispensing pattern of the denominations. For example, first a predetermined weight of a higher denomination is followed by a predetermined weight of lower denomination to total the payout. This controlled sequencing allows avoidance of the problem of differing values for same weights in different groupings of chips. Accordingly, some type of denomination sequencing control would be used. It would be unwieldy to randomly weigh groups of differing weight combinations to find the group providing the correct payout total. However, such random grouping is often the situation being presented from the betting function in which mixed combinations of same weight but different values are presented. This passage does not address this.

Applicant believes that none of the other games discussed in Franchi discloses any other discussions concerning sensing by weight or otherwise.

Accordingly, Franchi teaches the use of a structure different from that which is a part of, or contained within, the chip receptacle of the present invention. **More importantly,**

Franchi does not provide a teaching of use of weight alone to determine value of the chips played. In Franchi measurement of weight occurs in a chute or rack separate from the receptacle. There is no teaching that weight alone is used without color and size. Nor is there any recognition of the problem if weight alone is used and a solution to that problem taught. Thus the combination of U. S. Patent No. 5,788,574 and Franchi (U. S. Patent No. 5,770,533) teaches a structure other than a receptacle containing a weighing means and there has been no showing of a source of motivation (other than the prohibited present application) to place such means in the receptacle itself and not in an exterior chute or rack, nor a motivation on addressing the limitations on the use of weight to accurately determine values.

For these reasons, Applicant respectfully requests reconsideration of the present rejection, withdrawal of such by the Examiner and an indication of allowance of the remaining claims.

Respectfully submitted,

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